

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 MARK ROBERT QUIROZ,) No. C 11-0016 LHK (PR)
12 Plaintiff,) ORDER GRANTING
13 v.) DEFENDANTS' MOTION TO
14 MATTHEW CATE, et al.,) STAY DISCOVERY; DENYING
15 Defendants.) PLAINTIFF'S MOTION TO
16) COMPEL; GRANTING
16) PLAINTIFF'S MOTION FOR
16) EXTENSION OF TIME
16) (Docket Nos. 100, 111, 115)

17 Plaintiff, a state prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42
18 U.S.C. § 1983. The Court partially dismissed Plaintiff's complaint, and ordered it served upon
19 named Defendants.

20 Defendants have filed a motion to dismiss for failure to state a claim, and based on
21 qualified immunity. Defendants have also filed a motion to stay discovery pending the
22 resolution of their dispositive motion. A district court has broad discretion to stay discovery
23 pending the disposition of a dispositive motion. *See Panola Land Buyers Ass'n v. Shuman*, 762
24 F.2d 1550, 1560 (11th Cir. 1985). Moreover, a district court should stay discovery until the
25 threshold question of qualified immunity is settled. *See Crawford-El v. Britton*, 523 U.S. 574,
26 598 (1998); *Anderson v. Creighton*, 483 U.S. 635, 646 n.6 (1987). Thus, Defendants' motion to
27 stay discovery is GRANTED. Discovery shall be stayed until the Court has adjudicated
28 Defendants' motion to dismiss, and request for qualified immunity. If the Defendants' motion to
dismiss and/or request for qualified immunity does not dispose of this entire action, the stay will

1 be automatically lifted without further order from the Court.

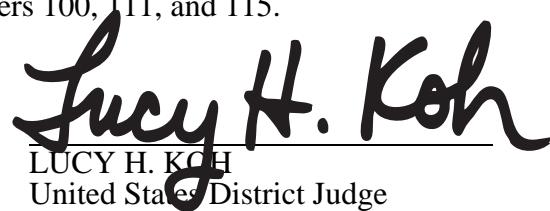
2 Plaintiff has filed a motion to compel the Pelican Bay State Prison Warden to allow him
3 to obtain declarations from inmate witnesses in the Security Housing Unit. Alternatively, he
4 requests appointment of counsel. As stated above, currently pending before the Court is
5 Defendants' motion to dismiss for failure to state a claim. Dismissal for failure to state a claim is
6 a ruling on a question of law. *See Parks School of Business, Inc., v. Symington*, 51 F.3d 1480,
7 1483 (9th Cir. 1995). "The issue is not whether plaintiff will ultimately prevail, but whether he
8 is entitled to offer evidence to support his claim." *Usher v. City of Los Angeles*, 828 F.2d 556,
9 561 (9th Cir. 1987). At this time, Plaintiff's motion for a Court order compelling the Warden to
10 permit him to obtain declarations from other inmates is DENIED without prejudice to renewal
11 after the Court resolves Defendants' motion to dismiss, and request for qualified immunity.
12 Plaintiff's motion, in the alternative, for appointment of counsel is DENIED without prejudice
13 for the reasons already stated in the Court's November 28, 2011 order.

14 Plaintiff's motion for an extension of time to file an opposition is GRANTED. Plaintiff's
15 opposition is due **no later than March 20, 2012**. Defendants' reply shall be filed **fifteen days**
16 thereafter.

17 This order terminates docket numbers 100, 111, and 115.

18 IT IS SO ORDERED.

19 DATED: 1/5/12


LUCY H. KOH
United States District Judge